

City Council Introduction: **Monday**, November 15, 2004
Public Hearing: **Monday**, November 29, 2004, at **5:30 p.m.**

Bill No. 04R-303

FACTSHEET

TITLE: SPECIAL PERMIT NO. 1384E, an amendment to the MARINA BAY COMMUNITY UNIT PLAN, requested by Michael and Chrisenda Smith, to reduce the rear yard setback on property located at 633 Marina Bay Place.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/13/04
Administrative Action: 10/13/04

RECOMMENDATION: Conditional Approval (6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Krieser, Carroll and Pearson absent).

FINDINGS OF FACT:

1. The applicant is requesting to reduce the rear yard setback from 22.5 feet to 19 feet to enclose a patio.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3, concluding that the reduction in the rear yard to enclose a patio should not have a negative impact on the adjacent property.
3. The applicant's testimony is found on p.5.
4. The record consists of letters in support from the property owners at 621 Marina Bay Place and 720 Marina Bay Place (p.9-10).
5. There was no testimony in opposition.
6. On October 13, 2004, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend conditional approval, as set forth in the staff report dated September 27, 2004.
7. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 8, 2004

REVIEWED BY: _____

DATE: November 8, 2004

REFERENCE NUMBER: FS\CC\2004\SP.1384E

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 13, 2004 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #1384E, Marina Bay Community Unit Plan

PROPOSAL: Reduce the rear yard setback from 22.5 feet to 19 feet for Lot 1, Block 1, Marina Bay Addition.

LOCATION: 633 Marina Bay Place.

WAIVER REQUEST:

Reduce the rear yard setback.

CONCLUSION: The reduction in the rear yard to enclose a patio should not have a negative impact on the adjacent property.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Block 1, Marina Bay Addition, Lincoln, Lancaster County, Nebraska

EXISTING ZONING: R-3 Residential

EXISTING LAND USE: Single family dwelling

SURROUNDING LAND USE AND ZONING:

North:	B-1, Local Business District	
South:	R-3 Residential District	Single family house
East:	R-3 Residential District	Single family house
West:	R-2 Residential District	Capitol Beach lake

HISTORY:

March 1, 1999 Special Permit #1384D to reduce the front yard setback for a garage was approved by City Council.

October 26, 1998 Special Permit #1384C to reduce the front and rear yard setback for a garage was approved by City Council.

July 13, 1998	Special Permit #1384B to reduce the rear yard setback was approved by City Council.
August 13, 1998	Special Permit #1384A was withdrawn.
November 3, 1997	Administrative Amendment #97102 to adjust lot lines was approved by the Planning Director.
December 10, 1990	Special Permit #1384 for Marina Bay Plaza community unit plan was approved by City Council.

COMPREHENSIVE PLAN SPECIFICATIONS: This area is shown as Urban Residential in the 2025 Comprehensive Plan. (F-25)

ANALYSIS:

1. This is a request to reduce the rear yard setback from 22 feet 6 inches to 19 feet to enclose a patio.
2. The applicant has requested a reduction in the rear yard setback across the entire rear yard.
3. Reduction in required yard setbacks are commonly granted when Community Unit Plans are approved. The reduction is towards the lake, not to an adjacent dwelling. Several amendments to CUP's to reduce the required rear yard setback have been approved.
4. The applicant has submitted letters from the abutting property owners. The neighbors are in support of the application.

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents to the Planning Department office and are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Submit documentation that the Capitol Beach Homeowners Association does not object to this application.
2. This approval permits a reduction in the rear yard setback for the patio as shown on the approved site plan.

Prepared by:

Tom Cajka
Planner

DATE: September 27, 2004

APPLICANT: Michael & Chrisenda Smith
633 Marina Bay Pl.
Lincoln, NE 68528
(402) 438-6333

OWNER: same as applicant

CONTACT: same as applicant

**SPECIAL PERMIT NO. 1384E,
AN AMENDMENT TO THE MARINA BAY
COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the applicant.

Proponents

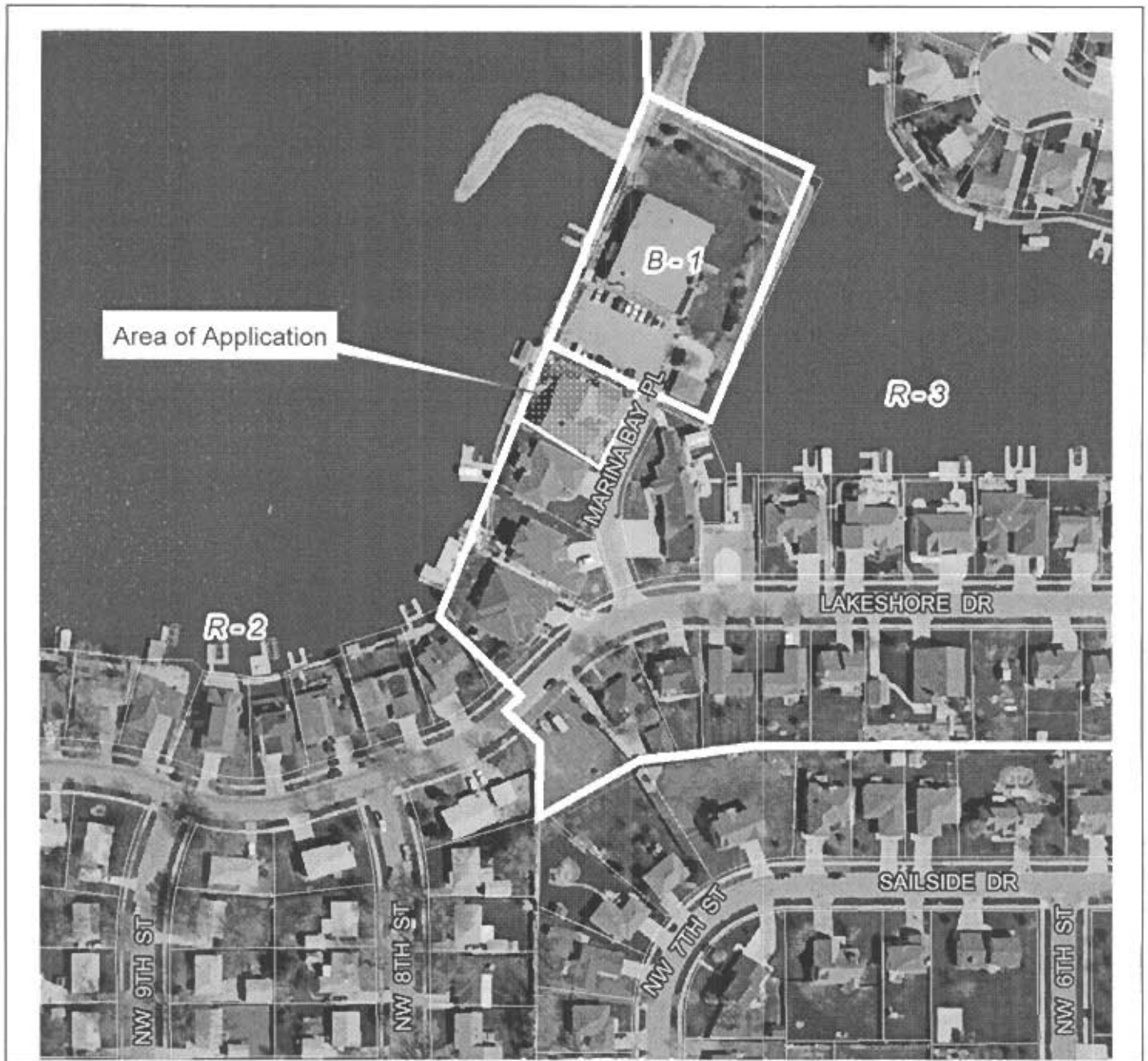
1. Mike Smith, 633 Marina Bay Place, the applicant, submitted some photographs and explained that the reason for this request is a desire to enclose his back patio which encroaches upon the rear yard. The property line is at least 12' from the water. He has the right to use the land up to the water. His neighbor to the south received a variance of his back yard setback and it was reduced to 17'. This is a request for a reduction to 19'. Smith noted that both the Planning Commission and Board of Zoning Appeals have looked favorably on reduction of rear yard setbacks at Capitol Beach previously.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Carlson moved to approve the staff recommendation of conditional approval, seconded by Taylor and carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Krieser, Carroll and Pearson absent. This is a recommendation to the City Council.



2002 aerial

Special Permit #1384E **Marina Bay CUP** **633 Marina Bay Plaza**

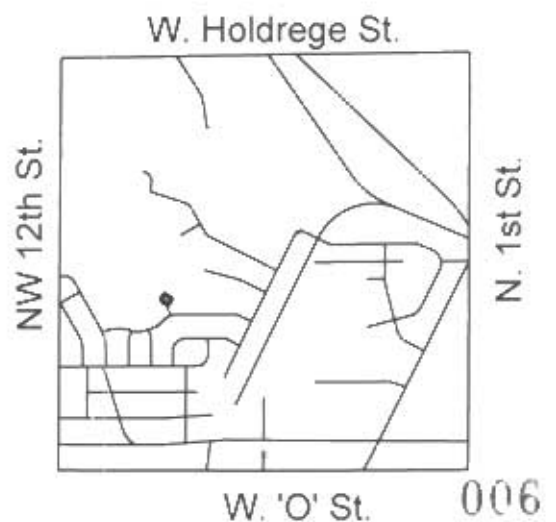
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
 Sec. 22 T10N R6E



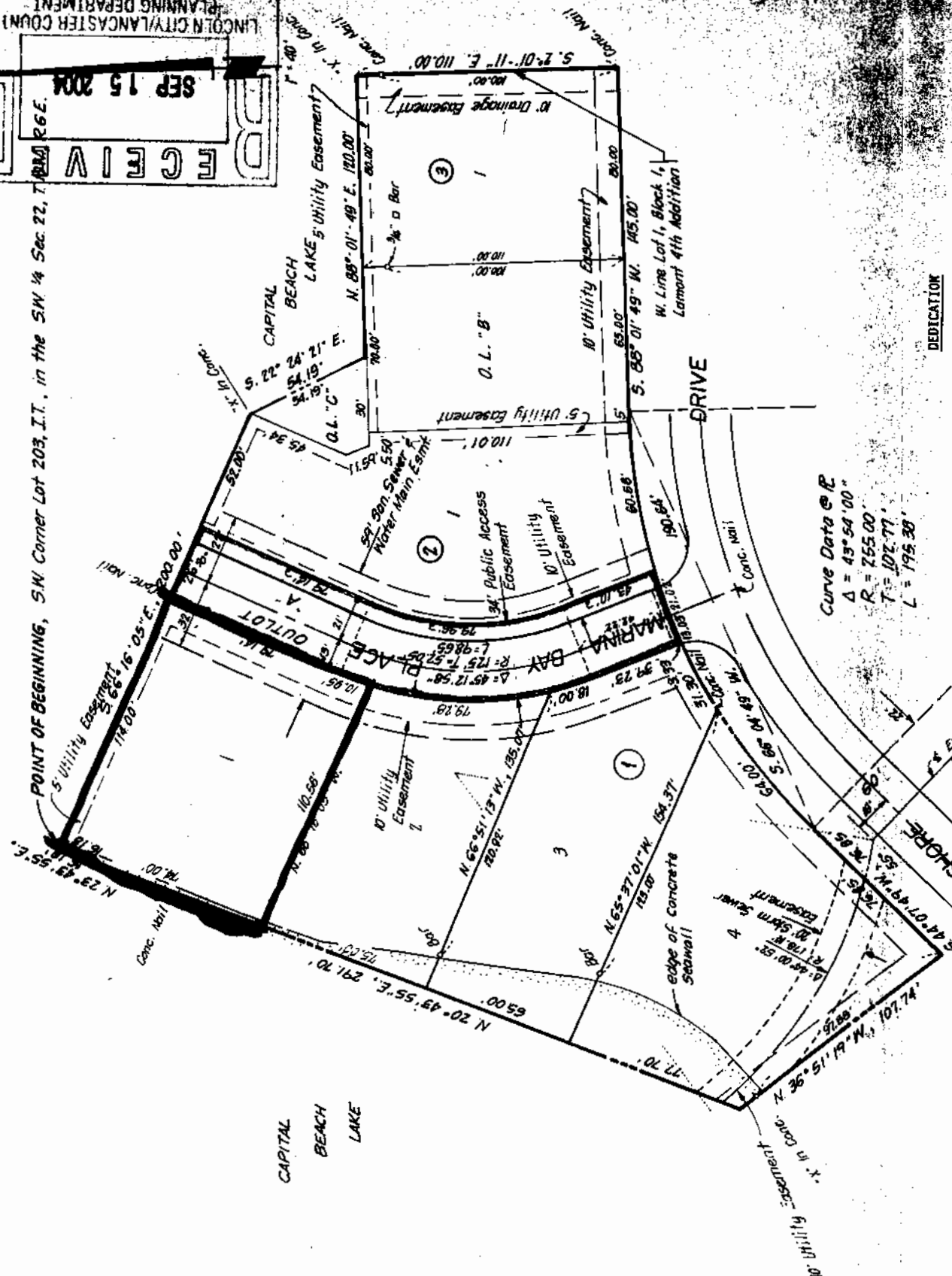
Zoning Jurisdiction Lines
 City Limit Jurisdiction



MARINA BAY ADDITION

POINT OF BEGINNING, SW Corner Lot 203, I.T., in the SW 1/4 Sec 22, T14N R6E

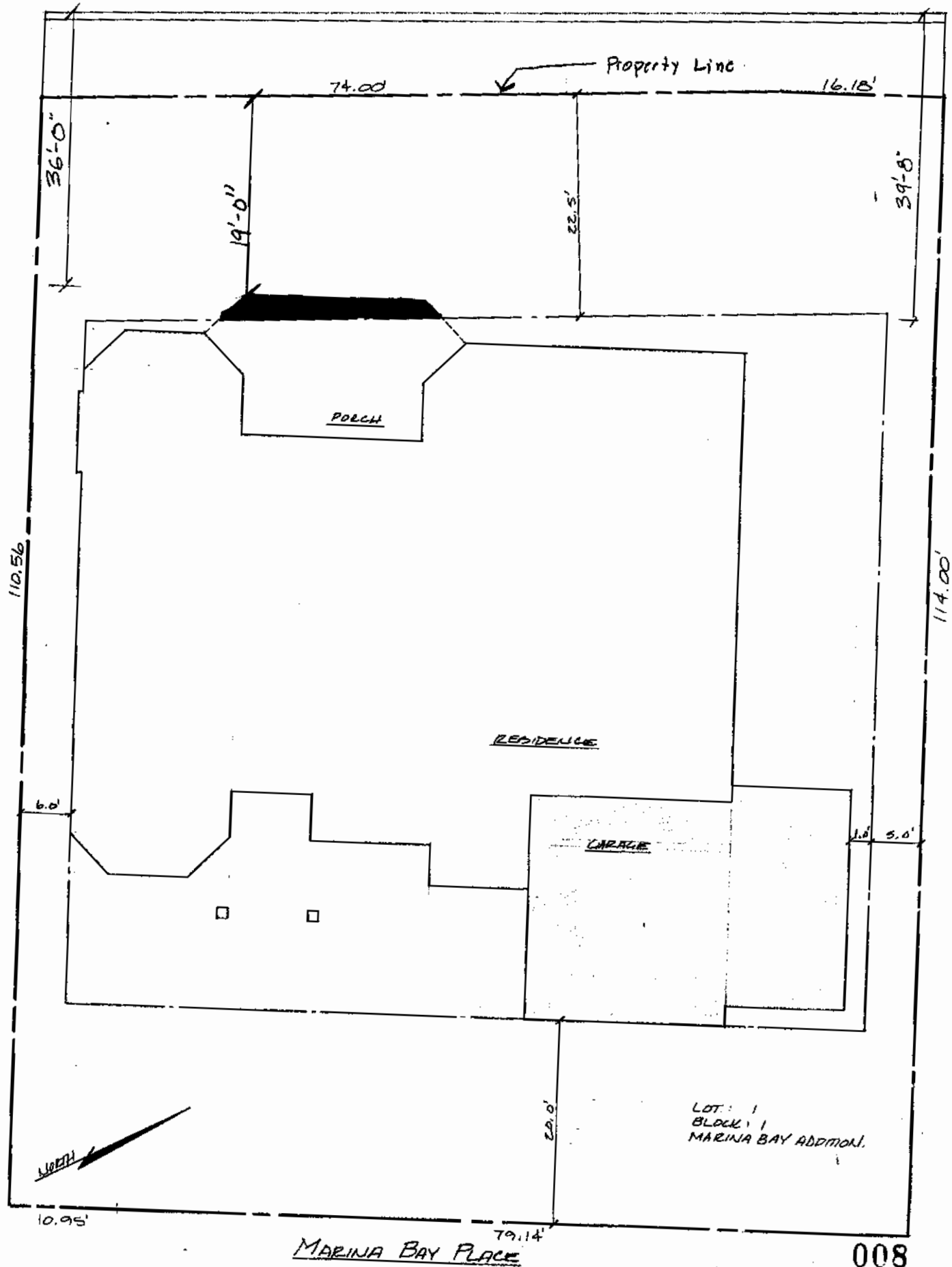
RECEIVED
SEP 15 2004
LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT



Curve Data @ R
 $\Delta = 43^\circ 54' 00''$
 $R = 755.00'$
 $T = 107.77'$
 $L = 195.30'$

DEDICATION

NEW SEA WALL



August 26, 2004

Board of Zoning Appeals
555 So. 10th Street
Lincoln, NE 68508

Dear Zoning appeals Board:

This is Clayton and Denice Schroeder 621 Marina Bay Pl. Lincoln NE. neighbors to the South of Mike and Chris Smith. I am writing this letter to make you aware of my knowledge of Michael Smith's desire to reduce the back yard set back to 19 feet. This would allow him to legally enclose his patio. Denice and myself have no problem with this request and have ourselves had our backyard setback reduced for the same reason.

Respectfully;

Clayton Schroeder
Denice Schroeder

Clayton Schroeder
Denice Schroeder



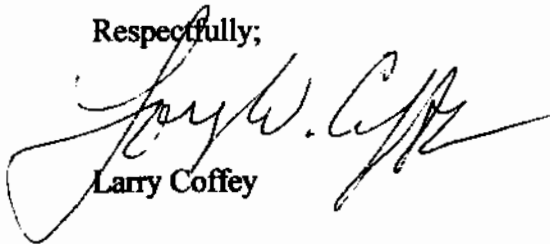
August 26, 2004

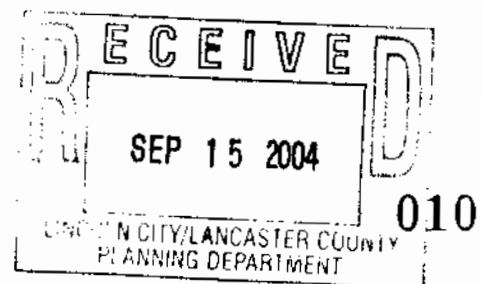
Board of Zoning Appeals
555 So. 10th Street
Lincoln, NE 68508

Dear Zoning appeals Board:

This is Larry Coffey I own the property North of Mike and Chris Smith at 720 Marina Bay Pl.. I am writing this letter to make you aware of my knowledge of Michael Smith's desire to reduce the back yard set back to 19 feet. This would allow him to legally enclose his patio. I have no problem with this request and ask that you vote in favor of his appeal.

Respectfully;


Larry Coffey



J. Michael Rierden
ATTORNEY AT LAW

THE COTSWOLD
845 "M" STREET
SUITE 200
LINCOLN, NE 68508

TELEPHONE (402) 476-2413
TELECOPIER (402) 476-2948

September 1, 2004

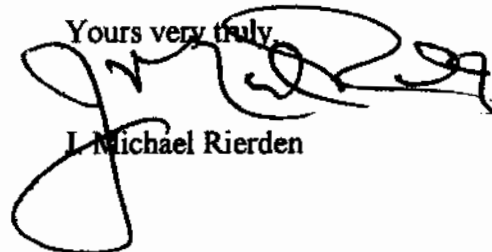
Board of Zoning Appeals
City of Lincoln
555 South 10th Street
Lincoln, Nebraska 68508

RE: 633 Marina Bay/Mike and Chris Smith

To Whom It May Concern:

Please be advised that my law firm represents Capitol Beach Community Association. I have been asked to write to you on behalf of the applicants, Mike and Chris Smith to explain to you the procedure for the building of docks, runways, and other structures in Capitol Beach Lake. First of all, the Lake bed is owned by the Association. Once a person purchases a lot abutting the Lake they then have the privilege of utilizing the Lake. However, when it comes to building such things as docks the property owner must first approach the Board of Directors of the Association in order to obtain a Temporary License Agreement. The Association has a policy that they will not deed the portion of the Lake to an abutting property owner for purposes of placing a dock. Rather, this is done by means of the Temporary License Agreement. The reason that the term "temporary" is used is that because if the property owner were in violation of any of the rules, regulations and covenants of the Association or is in default of paying dues or assessments then the Association could have the structure removed. To my knowledge this has never taken place and would be highly unusual. If you should have any other questions please feel free to contact me.

Yours very truly,



J. Michael Rierden

JMR/jdr

